IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

AMERICAN WASTE MANAGEMENT AND RECYCLING, LLC.

Plaintiff

v.

CEMEX PUERTO RICO; ET AL.

Defendants

CASE NO. 07-1658 (JAF)

MOTION REQUESTING IMPOSITION OF NON-RESIDENT BOND UPON PLAINTIFF AMERICAN WASTE MANAGEMENT AND RECYCLING, LLC.

TO THE HONORABLE COURT:

COMES NOW, Defendant CANOPY ECOTERRA CORP. (hereinafter "ECOTERRA") through the undersigned counsel, reserving all defenses, including improper service of process and lack of personal jurisdiction, and very respectfully state and pray as follows:

1. On July 23, 2007, Plaintiff, American Waste Management and Recycling, LLC. (hereinafter "AWMR"), presented the above captioned Complaint claiming breach of contract, collection of monies and damages.

2. It is uncontested that AWMR is a foreign corporation not domiciled in the Commonwealth of Puerto Rico. Moreover, it was not until recently, September 11, 2007, and after initiating

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this unmeritorious action, that AWMR registered as such before the Puerto Rico Department of State. See Dkt. #51, Exhibit I.

3. More revealing, is the fact that AWMR is what shall be considered a newly born entity, even in the State of Delaware where it was incorporated. To that effect, AWMR was only recently incorporated in Delaware on August 24, 2006. See Dkt. #26, Exhibit I.

4. Accordingly, Local Rule of Civil Procedure 65.2(c) states in pertinent part that:

> … a plaintiff not domiciled in Puerto Rico or which is a foreign corporation may, upon motion by the defendant, be required to post a bond to secure the costs, expenses, and attorneys' fees which may be awarded against them. The Court will set the amount of the bond and may stay the proceedings until its payment or, upon good cause shown, dispense with the requirement. Plaintiff must deposit the set amount with the Clerk within sixty (60) days of the Court's order; failure to post bond within the required time frame may entail dismissal of the action.

5. Ecoterra respectfully submits that this case clearly warrants the imposition of a non-resident bond upon plaintiff as there is no doubt that it is a foreign corporation that is not domiciled in the Commonwealth of Puerto Rico who, just recently and only after a motion to dismiss was filed by Ecoterra, received authorization to do business in this jurisdiction. See, in general, Dkt. #17.

6. With regards to the amount of the bond, Ecoterra respectfully submits that it should be of no less than One Hundred and Fifty Thousand Dollars ($150,000.00). Said bond should be issued and secured by a reputable and acceptable bonding company in Puerto Rico.

7. The factors to consider for the determination of the amount of the bond are, first, the fact that AWMR was just recently incorporated in the State of Delaware during the second half of 2006. Thus, this defendant has no knowledge of the stability of this corporation as it only recently started its own existence and operations. Second, and upon information and belief, AWMR lacks financial stability as there is no prior history of its financial statements available.

Third, the minimum contacts AWMR may have, or actually lacks, in this forum. Ecoterra respectfully submits that, to the best of its knowledge, AWMR does not have substantial contact with this forum or within the jurisdiction of Puerto Rico. That is, also, it has no knowledge of any other business enterprises in which AWMR may be participating within the Commonwealth of Puerto Rico.

Lastly, the probability of success of AWMR's claim. Ecoterra submits that AWMR lacks a reasonable possibility of success, much less a probability. In that regard, Ecoterra submits the very same docket history before this Honorable Court.

8. In conclusion, Ecoterra respectfully requests that this Honorable Court impose a non-resident bond upon plaintiff, AWMR. Said bond should be issued and secured by a reputable bonding company in Puerto Rico, in an amount of no less than One Hundred and Fifty Thousand Dollars ($150,000.00), from which this defendant will be able to recuperate some of the costs, expenses and attorneys' fees they have been forced to incur in this matter.

WHEREFORE, Ecoterra respectfully requests that this Honorable Court order AWMR to deposit with the Clerk of the Court a non-resident bond in an amount of no less than $150,000.00, which should be issued and secured by a reputable Puerto Rico bonding company.

I hereby certify that on October 9, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all counsel of record.

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RESPECTFULLY SUBMITTED. At San Juan, Puerto Rico, this 9th day of October, 2007.

S/ ANTONIO VALIENTE
ANTONIO VALIENTE
USDC-DPR No. 213906

S/ RAFAEL J. MARTINEZ-GARCIA
RAFAEL J. MARTINEZ-GARCIA
USDC-DPR No. 222111

NIGAGLIONI & FERRAIUOLI LAW OFFICES, P.S.C.
ATTORNEYS FOR CANOPY ECOTERRA CORP.
P.O. BOX 195384
SAN JUAN, PUERTO RICO 00919-5384
TEL: 787-765-9966
FAX: 787-751-2520
notices@nf-legal.com